



## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-427-833]

#### Certain Preserved Mushrooms from France: Final Affirmative Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that certain preserved mushrooms (preserved mushrooms) from France are being, or are likely to be, sold in the United States at less than fair value (LTFV).

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Christopher Williams, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5166.

#### SUPPLEMENTARY INFORMATION:

##### Background

On September 13, 2022, Commerce published in the *Federal Register* the *Preliminary Determination*.<sup>1</sup> We invited interested parties to comment on the *Preliminary Determination*. We received comments on the *Preliminary Determination* from the European Commission<sup>2</sup> and Giorgio Foods, Inc. (the petitioner), a domestic producer of preserved mushrooms.<sup>3</sup>

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<sup>1</sup> See *Certain Preserved Mushrooms from France: Preliminary Affirmative Determination of Sales at Less Than Fair Value*, 87 FR 55997 (September 13, 2022) (*Preliminary Determination*).

<sup>2</sup> See European Commission's Letter, "Comment on the Preliminary Determination Regarding the Antidumping Duty Investigation on Preserved Mushrooms from France (A-427-833)," dated October 11, 2022 (European Commission Comments).

<sup>3</sup> See Petitioner's Letter, "Less Than Fair Value Investigation of Certain Preserved Mushrooms from France – Petitioner's Comments in Lieu of Case Brief," dated October 13, 2022 (Petitioner's Comments).

### Period of Investigation

The period of investigation is January 1, 2021, through December 31, 2021.

### Scope of the Investigation

The products covered by this investigation are preserved mushrooms from France. For a full description of the scope of this investigation, *see* Appendix I.

### Analysis of Comments Received

The sole issue raised in comments that were submitted by parties in this investigation is addressed in the Issues and Decision Memorandum.<sup>4</sup> A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice at Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

### Use of Adverse Facts Available

As discussed in the *Preliminary Determination*, Commerce assigned to the mandatory respondents in this investigation, Bonduelle Europe Long Life and France Champignon, estimated weighted-average dumping margins on the basis of adverse facts available (AFA), pursuant to sections 776(a) and (b) of the Tariff Act of 1930, as amended (the Act).<sup>5</sup> There is no new information on the record that would cause us to revisit our decision in the *Preliminary Determination*. Accordingly, for this final determination, we continue to find that the application of AFA pursuant to sections 776(a) and (b) of the Act is warranted with respect to Bonduelle Europe Long Life and France Champignon. In applying AFA, we are assigning Bonduelle

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<sup>4</sup> See Memorandum, "Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Certain Preserved Mushrooms from France," dated concurrently with this notice.

<sup>5</sup> See *Preliminary Determination*, 85 FR at 83060.

Europe Long Life and France Champignon the highest margin identified in the petition, 360.88 percent.

#### Changes Since the *Preliminary Determination*

Based on the analysis of comments received, we made no changes for the final determination.

#### All-Others Rate

As discussed in the *Preliminary Determination*, Commerce based the all-others rate on the simple average of the dumping margins alleged in the petition, in accordance with section 735(c)(5)(B) of the Act.<sup>6</sup> We made no changes to the selection of the all-others rate for the final determination.

#### Final Determination

The final estimated weighted-average dumping margins are as follows:

<b>Producer or Exporter</b>	<b>Estimated Weighted-Average Dumping Margin (percent)</b>
Bonduelle Europe Long Life	360.88
France Champignon	360.88
All Others	224.68

#### Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with a final determination, in accordance with 19 CFR 351.224(b). However, because Commerce applied AFA to both mandatory respondents in this investigation, there are no calculations to disclose.

#### Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate

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<sup>6</sup> *Id.*

entries of preserved mushrooms from France, as described in Appendix I to this notice, entered, or withdrawn from warehouse, for consumption on or after September 13, 2022, the date of publication of *Preliminary Determination* in the *Federal Register*.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), where appropriate, Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margin determined in this final determination; (2) if the exporter is not a respondent identified above but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin. These suspension-of-liquidation instructions will remain in effect until further notice.

#### U.S. International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the U.S. International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because Commerce's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of preserved mushrooms from France no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, and all cash deposits posted will be refunded and suspension of liquidation will be lifted. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from

warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Continuation of Suspension of Liquidation” section.

#### Administrative Protective Order

This notice will serve as a final reminder to the parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

#### Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: November 21, 2022.

Abdelali Elouaradia,  
Deputy Assistant Secretary  
for Enforcement and Compliance.



## **Appendix I**

### **Scope of the Investigation**

The merchandise covered by this investigation is certain preserved mushrooms, whether imported whole, sliced, diced, or as stems and pieces. The preserved mushrooms covered under this investigation are the genus *Agaricus*. “Preserved mushrooms” refer to mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes slicing or cutting. These mushrooms are then packed and heat sterilized in containers each holding a net drained weight of not more than 12 ounces (340.2 grams), including but not limited to cans or glass jars, in a suitable liquid medium, including but not limited to water, brine, butter, or butter sauce. Preserved mushrooms may be imported whole, sliced, diced, or as stems and pieces.

Excluded from the scope are “marinated,” “acidified,” or “pickled” mushrooms, which are prepared or preserved by means of vinegar or acetic acid, but may contain oil or other additives. To be prepared or preserved by means of vinegar or acetic acid, the merchandise must be a minimum 0.5 percent by weight acetic acid.

The merchandise subject to this investigation is classifiable under subheadings 2003.10.0127, 2003.10.0131, and 2003.10.0137 of the Harmonized Tariff Schedule of the United States (HTSUS). The subject merchandise may also be classified under HTSUS subheadings 2003.10.0143, 2003.10.0147, and 2003.10.0153. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

## Appendix II

### List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Changes from the *Preliminary Determination*
- IV. Discussion of the Issue
  - Comment: Whether Commerce Should Assign the Highest Petition Margin as Adverse Facts Available (AFA)
- V. Recommendation

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